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POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

Letter dated 9 October 1991 from the Permanent Representative of South Africa to the United Nations addressed to the President of the General Assembly

The Special Committee against Apartheid has once again decided to hold an International Day of Solidarity with South African Political Prisoners on Friday, 11 October 1991. The holding of such a meeting is regretted since all political prisoners with a legitimate claim to political status, within the meaning and spirit of the Groote Schuur and Pretoria Minutes, have been released. Without prejudice to the South African Authorities' view that the meeting is unwarranted, the international community may wish to be apprised of the facts relating to the question of political offenders.

The principles surrounding the process of indemnity for "political offences" and the release of "political prisoners" correspond closely with the findings of the Independent Jurist who advised the United Nations on aspects relating to political offences during the independence process in Namibia, Professor C. A. Norgaard.

The African National Congress and the South African Government agreed to adopt these principles in the Pretoria Minute of 6 August 1990. As stated above, the South African Government remains convinced that all prisoners with a legitimate claim to political status have been released. The cumulative effect of the several categories of "political offences" was virtually that of a general amnesty, excluding only murder, culpable homicide, rape, indecent assault, robbery, fraud and aggravated assault. In addition, individuals claiming that they had committed such a common law crime with a political motive could be considered for release so long as the individual fell within the ambit of the Norgaard principles.

The International Committee of the Red Cross was requested to visit every prison institution in South Africa in order to bring the release programme to

the attention of every prisoner. By the end of August 1991, 1,145 prisoners, claiming political status, had been released. Moreover a Scrutiny Committee was established by the ANC/Government Working Group in terms of the Pretoria Minute. The task of the Scrutiny Committee was to examine the case of prisoners identified by the Department of Correctional Services as possibly having been involved in offences committed in unrest-related circumstances. While the Government had made it clear it did not consider these cases as constituting political offences, in an effort to satisfy all parties, it was prepared to allow the ANC to consider each individual case. The Government further received lists of political prisoners from the Human Rights Commission and the ANC. Of the 1,292 names submitted by the Human Rights Commission, and 462 from the ANC, 260 persons of the former list and 128 from the latter were in prison mostly for serious offences. The foregoing, already published lists, are available upon request from the South African Permanent Mission to the United Nations.

On 30 June 1991, the Minister of Justice, on behalf of the Government, and Mr. Jacob Zuma on behalf of the ANC, signed the following agreement:

> "Whereas it is of importance that the procedures, mechanisms and results relating to the release of prisoners under the Groote Schuur and Pretoria Minutes be accepted, therefore, both parties agree that for the purposes of their mutual endeavours in regard to the release of prisoners, it is deemed that finality in the process has been reached today and that the results are accepted: Provided that in any case in which the Government advises that release is not warranted, this shall not infringe on the right of the individual to request further advice from the Advisory Committees. This, however, shall not be construed as extending or delaying the finality of this agreement.
>
> "The process of release of prisoners relates solely to those prisoners whom the Government is empowered to release i.e. those prisoners held in prisons as defined in section 1 of the Prisons Act, 1959."

The following day the State President granted special remission of sentence to a broad spectrum of prisoners, excluding those serving life sentences, sexual offenders and child abusers. As a result, a large number of prisoners who did not qualify as "political offenders" were being released on parole under conditions negotiated with them. Both the ANC and PAC availed themselves of the terms of the amnesty to assist several prisoners to meet some of the conditions set for parole, particularly the conditions relating to employment and fixed residence. The South African Government is furthermore acting as an intermediary in negotiating the release of prisoners who are imprisoned in Boputhatswana.

The Government has gone out of its way to be fair and evenhanded in its approach to the release of prisoners. Even those not regarded as falling within the ambit of the guidelines were afforded the full opportunity and benefit of all the mechanisms devised as a result of the Pretoria Minute. In

addition the benefit of the executive prerogative of mercy by the State President, was applied in many cases.

I should be grateful if this letter could be circulated as a document of the General Assembly under agenda item 37.

(Signed) V. R. W. STEWARD
Ambassador
Permanent Representative

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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

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UNITED NATIONS EDUCATIONAL AND TRAINING PROGRAMME FOR SOUTHERN AFRICA

OFFERS BY MEMBER STATES OF STUDY AND TRAINING FACILITIES FOR INHABITANTS OF NON-SELF-GOVERNING TERRITORIES

Letter dated 9 October 1991 from the Permanent Representative of Congo to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the document entitled "Conclusions of the informal meetings of the Fourth Committee" and to request you to have it circulated as an official document of the General Assembly under agenda items 12, 19, 39, 99, 100, 101, 102 and 103.

(Signed) Martin ADOUKI
Ambassador
Permanent Representative

ANNEX

CONCLUSIONS OF THE INFORMAL MEETINGS OF THE FOURTH COMMITTEE

As a follow-up to the proposal made by the Chairman of the Fourth Committee during the forty-fifth session of the General Assembly that a Working Group should be established by the Fourth Committee in response to comments made by a number of delegations on its work, the Acting Chairman of the Fourth Committee convened four meetings of the Committee to consider those issues.

The first meeting was held on 5 March 1991. The 2nd, 3rd and 4th meetings took place, respectively, on 10 and 17 April and 4 June. More than a third of the United Nations membership, including most administering Powers, participated in each of those meetings. Items discussed included:

(a) the language of decolonization resolutions submitted to the General Assembly;

(b) the practice of references to extraneous issues;

(c) the question of selective name-calling;

(d) the form and content of resolutions submitted to the General Assembly;

(e) the streamlining of work, procedure and structure; and

(f) the restoration of full co-operation with the administering Powers with a special emphasis on the question of United Nations visiting missions.

The meetings were generally attended at a high level.

The Bureau of the Fourth Committee, after reviewing the extensive exchange of views that took place during those meetings, would like to propose the following conclusions:

I: Language of Resolutions

The overwhelming majority of delegations that attended the informal meetings were of the view that the language of the resolutions on decolonization issues should reflect the positive trends which now prevail in international relations, while highlighting as accurately as possible the realities and circumstances that prevail in the Territories. In this connection, reference should be made in those resolutions to all the options that are available to the peoples of the Non-Self-Governing Territories. It was also suggested by some delegations that statements on the activities of foreign economic and other interests should be more balanced, in order to take into account those activities which undoubtedly contribute to the economic and social development of those Territories. Generally speaking, the language should aim at restoring confidence among all concerned and not at generating confrontation.

II: Extraneous Issues

Delegations concluded that references to extraneous issues should be excluded or reduced to the minimum, and that United Nations decolonization activities should concentrate on the remaining Territories to which the Declaration applies. In this connection, every effort should be made to avoid selective name-calling.

III: Question of apartheid

On the relevance of the question of apartheid in the context of the Fourth Committee, various views were expressed. Some of the speakers suggested that the apartheid question should not cloud consideration of the issues confronting the remaining Non-Self-Governing Territories. A number of delegations felt that it was proper and within the mandate of the Fourth Committee to continue to consider the question of apartheid.

IV: Resolutions

Resolutions should be concise and focus on the subject under consideration in order to avoid overlapping and repetition. It is hoped that decolonization resolutions would henceforth give the highest priority to the situation in the remaining Territories, most of them islands in the Caribbean and the Pacific which need special consideration. In this connection, the Fourth Committee informal meetings took note with satisfaction of the progress made in that respect by the Special Committee of 24 in adopting a format for an "omnibus" resolution for 10 Territories considered by the Sub-Committee on Small Territories.

V: Special Committee of 24 Structure

The Fourth Committee informal meetings also noted with appreciation the decision taken by the Special Committee of 24 to merge the Sub-Committee on Small Territories and the Sub-Committee on Petitions, Information and Assistance effective

1 January 1992. It considered such a decision a very important streamlining step which will benefit the future work of the Fourth Committee.

VI: Cooperation of Administering Powers

The Fourth Committee informal meetings attach great importance to the cooperation of all the administering Powers in the decolonization process. The participants recommended that every effort be made to restore full confidence and cooperation between the administering Powers and the United Nations decolonization organs. In this connection, particular emphasis was placed on 3 aspects of cooperation between the administering Powers and the United Nations:

(a) The question of visiting missions: The participants called upon the administering Powers to resume full cooperation in that respect by inviting regular United Nations visiting missions to the Territories under their administration.

(b) The regular provision of timely and up-to-date information on Non-Self-Governing Territories to the Secretary-General of the United Nations as prescribed by Article 73 e of the Charter.

(c) The participation of the administering Powers in the work of the United Nations decolonization organs.

VII: Fourth Committee Informal Meetings

Some delegations considered that more discussions and consultations should take place on draft resolutions and decisions in the Fourth Committee before they are recommended to the plenary meeting of the General Assembly for adoption.

Comment

The Bureau of the Fourth Committee suggests that this paper serve as the basis for the Chairman's on-going consultations with the Special Committee of 24. The Chairman would propose to draw on this paper at the organizational meeting of the Fourth Committee at the forty-sixth session of the General Assembly.

The Bureau would like to record the spirit of cooperation among delegations that characterized these informal meetings, as well as the harmonious and productive way in which these meetings and those of the Special Committee worked together to similar ends.